

**AGREEMENT**  
**BETWEEN**  
**THE CITY OF FRISCO, TEXAS (CITY)**  
**AND**  
**KIMLEY-HORN AND ASSOCIATES, INC. (CONSULTANT)**  
**FOR**  
**PROFESSIONAL ENGINEERING SERVICES**

Made as of the \_\_\_\_ day of \_\_\_\_\_ in the year Two Thousand Nine:

**BETWEEN** the City:       **The City of Frisco, Texas**  
6101 Frisco Square Boulevard  
Frisco, Texas 75034  
Telephone: (972) 292-5400  
Facsimile: (972) 292-5016

and the Consultant:       **Kimley-Horn and Associates, Inc.**  
12700 Park Central Drive, Suite 1800  
Dallas, Texas 75251  
Telephone: (972) 770-1300  
Facsimile: (972) 239-3820

for the following Project:   **Professional engineering services for Lafayette Drive  
Drainage Improvements**

The City and the Consultant agree as set forth below.

**THIS AGREEMENT** is made and entered by and between the **City of Frisco, Texas**, a Home-Rule Municipal Corporation, hereinafter referred to as "City," and **Kimley-Horn and Associates Inc.**, hereinafter referred to as "Consultant," to be effective from and after the date as provided herein, hereinafter referred to as "Agreement."

**WHEREAS**, the City desires to engage the services of the Consultant for Lafayette Drive Drainage Improvements, hereinafter referred to as "Project;" and

**WHEREAS**, the Consultant desires to render such professional engineering services for the City upon the terms and conditions provided herein.



**NOW, THEREFORE, KNOW ALL PERSONS BY THESE PRESENTS:**

That for and in consideration of the covenants contained herein, and for the mutual benefits to be obtained hereby, the parties agree as follows:

**ARTICLE 1  
CONSULTANT'S SERVICES**

- 1.1 **Employment of the Consultant** – The City hereby agrees to retain the Consultant to perform professional engineering services in connection with the Project. Consultant agrees to perform such services in accordance with the terms and conditions of this Agreement.
- 1.2 **Scope of Services** – The parties agree that Consultant shall perform such services as are set forth and described in Exhibit "A," which is attached hereto and incorporated herein by reference for all purposes. The parties understand and agree that deviations or modifications to the scope of services described in Exhibit "A," in the form of written change orders, may be authorized from time to time by the City.
  - 1.2.1 **Requirement of Written Change Order** – "Extra" work, or "claims" invoiced as "extra" work, or "claims" which have not been issued as a duly executed, written change order by the Frisco City Manager, will not be authorized for payment and/or shall not become part of the subcontracts. A duly executed written change order shall be preceded by the Frisco City Council's authorization for the Frisco City Manager to execute said change order.
  - 1.2.2 **DO NOT PERFORM ANY EXTRA WORK AND/OR ADDITIONAL SERVICES WITHOUT A DULY EXECUTED WRITTEN CHANGE ORDER ISSUED BY THE FRISCO CITY MANAGER.** Project Managers, Superintendents, and/or Inspectors of the City are not authorized to issue verbal or written change orders.
- 1.3 **Schedule of Work** – The Consultant agrees to commence work immediately upon the execution of this Agreement, and to proceed diligently with said work to completion as described in the Compensation Schedule / Project Billing / Project Budget attached hereto as Exhibit "B" and incorporated herein by reference for all purposes, but in no event shall the Project be completed any later than April 30, 2010.

**ARTICLE 2  
THE CITY'S RESPONSIBILITIES**

City shall do the following in a timely manner so as not to delay the services of Consultant:



- 2.1 **Project Data** – The City shall furnish required information, which it currently has in its possession, as expeditiously as necessary for the orderly progress of the work, and the Consultant shall be entitled to rely upon the accuracy and completeness thereof.
- 2.2 **City Project Manager** – The City shall designate, when necessary, a representative authorized to act on the City's behalf with respect to the Project (the "Project Manager"). The City or such authorized representative shall examine the documents submitted by the Consultant and shall render any required decisions pertaining thereto as soon as practicable so as to avoid unreasonable delay in the progress of the Consultant's services. The Project Manager is not authorized to issue verbal or written change orders for "extra" work or "claims" invoiced as "extra" work.

### **ARTICLE 3 CONSULTANT'S COMPENSATION**

- 3.1 **Compensation for Consultant's Services** – As described in "Article 1, Consultant's Services," compensation for this Project shall be on a lump sum basis, for an amount not to exceed Seventy-Three Thousand Five Hundred and 00/100 Dollars (\$73,500.00), ("Consultant's Fee") and shall be paid in accordance with Article 3 and the Compensation Schedule / Project Billing / Project Budget as set forth in Exhibit "B."
- 3.1.1 **Completion of Record Documents** – City and Consultant agree that the completion of the Record Documents and/or "As-Built" Documents, including hard copy formatting and electronic formatting, shall be completed, submitted to, and accepted by the City prior to payment of the final five percent (5%) of the Consultant's Fee, or Three Thousand Six Hundred Seventy-Five and 00/100 Dollars (\$3,675.00). The electronic formatting shall be consistent with the standards established in Exhibit "C," City of Frisco Guidelines for Computer Aided Design and Drafting ("CADD"). Completion of the Record Documents and/or "As-Built" documents shall be included in the Consultant's Fee and considered to be within the Scope of Services defined under this Agreement.
- 3.1.2 **Disputes between City and Construction Contractor** – If the Project involves the Consultant performing Construction Administration Services relating to an agreement between a Construction Contractor (the "Contractor") and the City, and upon receipt of a written request by City, Consultant shall research previous and existing conditions of the Project, and make a determination whether or not to certify that sufficient cause exists for the City to declare the Contractor in default of the terms and conditions of the agreement. Consultant shall submit his findings in writing to the City, or submit a written request for a specific extension of



time (including the basis for such extension), within fifteen (15) calendar days of receipt of the written request from the City. City and Consultant agree that if requested by the City, completion of this task shall be included in the Consultant's Fee and considered to be within the Scope of Services as defined under this Agreement.

**3.1.3 Consultation and Approval by Governmental Authorities and Franchised Utilities**

– Consultant shall be responsible for identifying and analyzing the requirements of governmental agencies and all franchise utilities involved with the Project, and to participate in consultation with said agencies in order to obtain all necessary approvals and/or permissions. The Consultant shall be responsible for preparation and timely submittal of documents required for review, approval, and/or recording by such agencies. The Consultant shall be responsible for making such changes in the Construction Documents as may be required by existing written standards promulgated by such agencies at no additional charge to City.

**3.1.4 Substantial Compliance with Architectural Barriers Act**

– Should the Project fall within the regulatory requirements of the Texas Architectural Barriers Act, Chapter 68 Texas Administrative Code , as it exists or may be amended (the "Barriers Act"), as solely determined by the City, Consultant shall comply with the Barriers Act. As part of the Scope of Services defined in this Agreement, it is the sole responsibility of the Consultant to identify and analyze the requirements of the Barriers Act and to become familiar with the governmental authorities having jurisdiction to approve the design of the Project. Consultant shall participate in consultations with said authorities in order to obtain approval for the Project. As part of the services provided under the Consultant's Fee, the Consultant shall obtain the Notice of Substantial Compliance for the Project from the Texas Department of Licensing and Regulation (the "TDLR"). The Consultant shall, without additional compensation, immediately correct any errors, omissions, or deficiencies in the design services and/or construction documents identified by TDLR and/or a Registered Accessibility Specialist ("RAS") at any phase of the Project, either by review of the construction documents, or inspection of the Project at the commencement of construction, during the construction of the Project, or at the completion of construction.

**3.1.4.1 Submission of Construction Documents to TDLR**

– The Consultant shall mail, ship, or hand-deliver the construction documents to TDLR not later than five (5) calendar days after the Consultant issues the construction documents for the Project.



- 3.1.4.2 **Completion of Registration Form to TDLR** – Consultant shall complete an Elimination of Barriers Project Registration Form (The “Form”) for each subject building or facility within the Scope of the Project, and submit the registration form(s) along with the applicable fees not later than fourteen (14) calendar days after the Consultant completes the submittal of the construction documents to TDLR.
- 3.1.4.3 **TDLR Approval of Construction Documents** – After review of the construction documents by TDLR, the Consultant shall be notified in writing of the results; however, it is the Consultant’s responsibility to obtain TDLR’s written comments. The Consultant shall address all comments that prevent TDLR approval of the construction documents, including comments relating to Conditional Approval that must be addressed in the design and construction of the Project. Consultant shall resubmit construction documents to TDLR for review prior to the completion of construction of the Project.
- 3.1.4.4 **TDLR Project Inspection** – Consultant shall request an inspection from TDLR or a TDLR locally approved RAS no later than thirty (30) calendar days after the completion of construction of the Project. The Consultant shall advise the City in writing of the results of each Project inspection. City reserves the right to verify the written results with TDLR at any time during design, construction, or at the completion of the Project.
- 3.1.4.5 **Corrective Modifications following TDLR Project Inspection**  
- When corrective modifications to achieve substantial compliance are required, the TDLR inspector or the RAS shall provide the Consultant a list of deficiencies and a deadline for completing the modifications. Consultant shall provide the City with this list within five (5) calendar days of receipt. It is the sole responsibility of the Consultant to completely address the deficiencies by the stated deadline or to obtain a written notice of extension from the TDLR. When the corrective measures have been completed, Consultant shall provide the TDLR (and/or the RAS who completed the inspection) and the City with written verification of the corrective measures completed.
- 3.1.4.6 **TDLR Notice of Substantial Compliance** – TDLR shall provide a Notice of Substantial Compliance to the City after the newly constructed Project has had a satisfactory inspection, or Consultant has submitted verification of corrective modifications. City and Consultant agree that the final five percent (5%) of the Consultant’s Fee, or Three Thousand Six Hundred Seventy-Five



and 00/100 Dollars (\$3,675.00), shall not be paid until the City is in receipt of the TDLR's Notice of Substantial Compliance for all Project components and/or phases of the Project.

3.2 **Direct Expenses** – Direct Expenses are included in the Consultant's Fee as described in Article 3.1 and include actual reasonable and necessary expenditures made by the Consultant and the Consultant's employees and subcontractors in the interest of the Project. All submitted Direct Expenses are to be within the amounts as stated in the Compensation Schedule / Project Billing / Project Budget set forth in Exhibit "B," and consistent with Exhibit "D," City of Frisco Guidelines for Direct Expenses; General and Administrative Markup; Travel and Subsistence Expenses. The Consultant shall be solely responsible for the auditing and accuracy of all Direct Expenses, including those of its subcontractors, prior to submitting to the City for reimbursement, and shall be responsible for the accuracy thereof. Any over-payment by the City for errors in submittals for reimbursement may be deducted from the Consultant's subsequent payment for services; provided, however this shall not be the City's sole and exclusive remedy for said over-payment.

3.3 **Additional Services** – The Consultant shall provide the services as described in the Scope of Services as set forth in Exhibit "A" of this Agreement. If authorized in writing by the City, the Consultant shall provide additional services, to be compensated on an hourly basis in accordance with this paragraph ("Additional Services"). These services may include, but are not limited to:

3.3.1 Additional meetings, hearings, work-sessions, or other similar presentations which are not provided for or contemplated in the Scope of Services described in Exhibit "A."

3.3.2 Additional drafts and revisions to the Project which are not provided for or contemplated in the Scope of Services as described in Exhibit "A."

3.3.3 Additional copies of final reports and construction plans which are not provided for or contemplated in the Scope of Services as described in Exhibit "A."

3.3.4 Photography, professional massing models which are not provided for or contemplated in the Scope of Services as described in Exhibit "A."

3.3.5 Compensation for Additional Services authorized by the City shall be in addition to the Consultant's Fee and shall be based on direct billable labor rates and expenses.

3.3.6 Compensation for Additional Services authorized by the City shall be in addition to the Consultant's Fee and shall be based on an hourly basis according to the following personnel rates. The rates set forth in this chart



are subject to reasonable change provided prior written notice of said change is given to City.

#### Hourly Billable Rates by Position

<i>Name</i>	<i>Position</i>	<i>Hourly Rate</i>
	Senior Professional I	\$ 180.00 - 220.00
	Senior Professional II	\$ 155.00 - 200.00
	Professional	\$ 125.00 - 155.00
	Analyst	\$ 125.00 - 130.00
	Designer	\$ 85.00 - 150.00
	Technical Support	\$ 60.00 - 135.00
	Clerical / Administrative Support	\$ 60.00 - 100.00

- 3.4 **Invoices** – No payment to Consultant shall be made until the Consultant tenders an invoice to the City. The Consultant shall submit monthly invoices for services rendered, based upon the actual percentage of work complete at the time the invoice is prepared, or are to be mailed to City immediately upon completion of each individual task listed in Exhibit “B.” On all submitted invoices for services rendered and work completed on a monthly basis, Consultant shall include appropriate background materials to support the submitted charges on said invoice. Such background material shall include, but is not limited to, employee timesheets, invoices for work obtained from other parties, and receipts and/or log information relating to Direct Expenses. All invoices for payment shall provide a summary methodology for administrative markup and/or overhead charges.
- 3.5 **Timing of Payment** – City shall make payment to Consultant for said invoices within thirty (30) days following receipt and acceptance thereof. The parties agree that payment by City to Consultant is considered to be complete upon mailing of payment by City. Furthermore, the parties agree that the payment is considered to be mailed on the date that the payment is postmarked.
- 3.6 **Disputed Payment Procedures** – In the event of a disputed or contested billing by City, only that portion so contested may be withheld from payment, and the undisputed portion will be paid. City shall notify Consultant of a disputed invoice, or portion of an invoice, in writing by the twenty-first (21<sup>st</sup>) calendar day after the date the City receives the invoice. City shall provide Consultant an opportunity to cure the basis of the dispute. If a dispute is resolved in favor of the Consultant, City shall proceed to process said invoice, or the disputed portion of the invoice, within the provisions of Article 3.5. If a dispute is resolved in favor of the City, Consultant shall submit to City a corrected invoice, reflecting any and all payment(s) of the undisputed amounts, documenting the credited amounts, and identifying outstanding amounts on said invoice to aid City in processing payment for the remaining balance. Such revised invoice shall have a new invoice number, clearly referencing the previous submitted invoice. City agrees to



exercise reasonableness in contesting any billing or portion thereof that has background materials supporting the submitted charges.

- 3.7 **Failure to Pay** – Failure of the City to pay an invoice, for a reason other than upon written notification as stated in the provisions of Article 3.6 to the Consultant within sixty (60) days from the date of the invoice shall grant the Consultant the right, in addition to any and all other rights provided, to, upon written notice to the City, suspend performance under this Agreement, and such act or acts shall not be deemed a breach of this Agreement. However, Consultant shall not suspend performance under this Agreement prior to the tenth (10<sup>th</sup>) calendar day after written notice of suspension was provided to City, in accordance with Chapter 2251, Subchapter “D” (“Remedy for Nonpayment”) of the Texas Government Code. The City shall not be required to pay any invoice submitted by the Consultant if the Consultant breached any provision(s) herein.
- 3.8 **Adjusted Compensation** – If the Scope of the Project or if the Consultant’s services are materially changed due to no error on behalf of Consultant in the performance of services under this Agreement, the amounts of the Consultant’s compensation shall be equitably adjusted as approved by City. Any additional amounts paid to the Consultant as a result of any material change to the Scope of the Project shall be authorized by written change order duly executed by both parties before the services are performed.
- 3.9 **Project Suspension** – If the Project is suspended or abandoned in whole or in part for more than three (3) months, Consultant shall be entitled to compensation for any and all work completed to the satisfaction of City in accordance with the provisions of this Agreement prior to suspension or abandonment. In the event of such suspension or abandonment, Consultant shall deliver to City all finished or unfinished documents, data, studies, drawings, maps, models, reports, photographs, and/or any other items prepared by Consultant in connection with this Agreement prior to Consultant receiving final payment. If the Project is resumed after being suspended for more than three (3) months, the Consultant’s compensation shall be equitably adjusted as approved by the City. Any additional amounts paid to the Consultant after the Project is resumed shall be agreed upon in writing by both parties before the services are performed.

#### **ARTICLE 4 OWNERSHIP OF DOCUMENTS**

- 4.1 **Documents Property of the City** – The Project is the property of the City, and Consultant may not use the documents, plans, data, studies, surveys, drawings, maps, models, reports, photographs, and/or any materials for any other purpose not relating to the Project without City’s prior written consent. City shall be furnished with such reproductions of the Project, plans, data, documents, maps, and any other information as defined in Exhibit “A.” Upon completion of the work, or any earlier termination of this Agreement under Article 3 and/or Article 8,



Consultant will revise plans, data, documents, maps, and any other information as defined in Exhibit "A" to reflect changes while working on the Project through the date of completion of the work, as solely determined by City, or the effective date of any earlier termination of this Agreement under Article 3 and/or Article 8, and promptly furnish the same to the City in an acceptable electronic format. All such reproductions shall be the property of the City who may use them without the Consultant's permission for any purpose relating to the Project, including, but not limited to, completion of the Project, and/or additions, alterations, modifications, and/or revisions to the Project. Any reuse of the documents not relating to the Project shall be at the City's own risk.

- 4.2 **Documents Subject to Laws Regarding Public Disclosure** – Consultant acknowledges that City is a governmental entity and that all documents, plans, data, studies, surveys, drawings, maps, models, reports, photographs, and/or any items prepared or furnished by Consultant (and Consultant's professional associates and/or Sub-consultants) under this Agreement are instruments of service in respect of the Project and property of the City and upon completion of the Project shall thereafter be subject to the Texas Public Information Act (Texas Government Code, Chapter 552) and any other applicable laws requiring public disclosure of the information contained in said documents.

## **ARTICLE 5 CONSULTANT'S INSURANCE REQUIREMENTS**

- 5.1 **Required General Liability Insurance** – Consistent with the terms and provisions of Exhibit "E," City of Frisco Contractor Insurance Guidelines, Consultant shall maintain, at no expense to City, a general liability insurance policy with a company that maintains a minimum rating of "A" by A.M. Best's Key Rating Guide, or other equivalent rating service(s), authorized to transact business in the State of Texas, in an amount not less than One Million and 00/100 Dollars (\$1,000,000.00) for each occurrence, and Two Million and 00/100 Dollars (\$2,000,000.00) in the aggregate. Such policy shall name the City, its officers, agents, representatives, and employees as additional insured as to all applicable coverage. Such policy shall provide for a waiver of subrogation against the City for injuries, including death, property damage, or any other loss to the extent that same is covered by the proceeds of the insurance. Such policy shall require the provision of written notice to City at least thirty (30) days prior to cancellation, non-renewal, or material modification of any policies, evidenced by return receipt or United States Certified Mail. Consultant shall furnish City with certificates evidencing such coverage prior to commencing work on the Project.
- 5.2 **Required Professional Liability Insurance** – Consistent with the terms and provisions of Exhibit "E," City of Frisco Contractor Insurance Guidelines, Consultant shall maintain, at no expense to City, a professional liability (errors and omissions) insurance policy with a company that maintains a minimum rating of "A" by A.M. Best's Key Rating Guide, or other equivalent rating service(s),



authorized to transact business in the State of Texas, in an amount not less than One Million and 00/100 Dollars (\$1,000,000.00) for each claim, and Two Million and 00/100 Dollars (\$2,000,000.00) in the aggregate. Such policy shall require the provision of written notice to City at least thirty (30) days prior to cancellation, non-renewal, or material modification of any policies, evidenced by return receipt or United States Certified Mail. Consultant shall furnish City with certificates evidencing such coverage prior to commencing work on the Project.

- 5.3 **Required Workers Compensation Insurance** – Consistent with the terms and provisions of Exhibit “E,” City of Frisco Contractor Insurance Guidelines, Consultant shall maintain, at no expense to City, all Statutory Workers Compensation Insurance as required by the laws of the State of Texas. Such insurance policy shall be with a company that maintains a minimum rating of “A” by A.M. Best’s Key Rating Guide, or other equivalent service(s), and authorized to transact business in the State of Texas. Such policy shall require the provision of written notice to City at least thirty (30) days prior to cancellation, non-renewal, or material modification of any policies, evidenced by return receipt or United States Certified Mail. Consultant shall furnish City with certificates evidencing such coverage prior to commencing work on the Project.

- 5.4 **Circumstances Requiring Umbrella Coverage or Excess Liability Coverage** – If Project size and scope warrant, and if identified on the checklist located in Exhibit “E,” City of Frisco Contractor Insurance Guidelines, Consultant shall maintain, at no expense to the City, an umbrella coverage or excess liability coverage insurance policy with a company that maintains a minimum rating of “A” by A.M. Best’s Key Rating Guide, or other equivalent rating service(s), authorized to transact business in the State of Texas, in an amount of Two Million and 00/100 Dollars (\$2,000,000.00). Such policy shall require the provision of written notice to the City at least thirty (30) days prior to cancellation, non-renewal, or material modification of any policies, evidenced by return receipt or United States Certified Mail. Consultant shall furnish City with certificates evidencing such coverage prior to commencing work on the Project.

## **ARTICLE 6 CONSULTANT’S ACCOUNTING RECORDS**

Records of Direct Expenses and expenses pertaining to services performed in conjunction with the Project shall be kept on the basis of generally accepted accounting principles. Invoices will be sent to the City as indicated in Article 3.4. Copies of employee time sheets, receipts for direct expense items and other records of Project expenses will be included in the monthly invoices.

## **ARTICLE 7 AUDITS AND RECORDS / PROHIBITED INTEREST / VENDOR DISCLOSURE**



The Consultant agrees that at any time during normal business hours and as often as the City may deem necessary, Consultant shall make available to representatives of the City for examination all of its records with respect to all matters covered by this Agreement, and will permit such representatives of the City to audit, examine, copy and make excerpts or transcripts from such records, and to make audits of all contracts, invoices, materials, payrolls, records of personnel, conditions of employment and other data relating to all matters covered by this Agreement, and for a period of four (4) years from the date of final settlement of this Agreement or for such other or longer period, if any, as may be required by applicable statute or other lawful requirement.

The Consultant agrees that it is aware of the prohibited interest requirement of the City Charter, which is repeated on the Affidavit, attached hereto as Exhibit "F" and incorporated herein for all purposes, and will abide by the same. Further, a lawful representative of Consultant shall execute the Affidavit attached hereto as Exhibit "F." Consultant understands and agrees that the existence of a prohibited interest during the term of this Agreement will render the Agreement voidable.

Consultant agrees that it is further aware of the vendor disclosure requirements set forth in Chapter 176, Local Government Code, as amended, and will abide by the same. In this connection, a lawful representative of Consultant shall execute the Conflict of Interest Questionnaire, Form CIQ, attached hereto as Exhibit "G" and incorporated herein for all purposes.

## **ARTICLE 8 TERMINATION OF AGREEMENT / REMEDIES**

City may, upon thirty (30) days written notice to Consultant, terminate this Agreement, for any reason or no reason at all, before the termination date hereof, and without prejudice to any other remedy it may have. If City terminates this Agreement due to a default of and/or breach by Consultant and the expense of finishing the Project exceeds the Consultant's Fee at the time of termination, Consultant waives its right to any portion of Consultant's Fee as set forth in Article 3 herein and agrees to pay any costs over and above the fee which the City is required to pay in order to finish the Project. On any default and/or breach by Consultant, City may elect not to terminate the Agreement, and in such event it may make good the deficiency in which the default consists, and deduct the costs from the Consultant's Fee due Consultant as set forth in Article 3 herein. If City terminates this Agreement and Consultant is not in default of the Agreement, Consultant shall be entitled to compensation for any and all work completed to the satisfaction of the City in accordance with the provisions of this Agreement prior to termination.

In the event of any termination, Consultant shall deliver to City all finished and/or unfinished documents, data, studies, surveys, drawings, maps, models, reports, photographs and/or any items prepared by Consultant in connection with this Agreement prior to Consultant receiving final payment.



The rights and remedies provided by this Agreement are cumulative, and the use of any one right or remedy by either party shall not preclude or waive its rights to use any or all other remedies. These rights and remedies are given in addition to any other rights the parties may have by law, statute, ordinance, or otherwise.

## **ARTICLE 9 DISPUTE RESOLUTION / MEDIATION**

In addition to all remedies at law, the parties may resolve/mediate any controversy, claim or dispute arising out of or relating to the interpretation or performance of this Agreement, or breach thereof, by voluntary mediation to be conducted by a mutually acceptable mediator.

## **ARTICLE 10 INDEMNITY**

**CONSULTANT SHALL RELEASE, DEFEND, INDEMNIFY AND HOLD HARMLESS CITY AND ITS CITY COUNCIL MEMBERS, OFFICERS, AGENTS, REPRESENTATIVES AND EMPLOYEES FROM AND AGAINST ALL DAMAGES, INJURIES (INCLUDING DEATH), CLAIMS, PROPERTY DAMAGES (INCLUDING LOSS OF USE), LOSSES, DEMANDS, SUITS, JUDGMENTS AND COSTS, INCLUDING REASONABLE ATTORNEY'S FEES AND EXPENSES (INCLUDING ATTORNEY'S FEES AND EXPENSES INCURRED IN ENFORCING THIS INDEMNITY), TO THE EXTENT CAUSED, IN WHOLE OR IN PART, BY THE NEGLIGENT, GROSSLY NEGLIGENT, AND/OR INTENTIONAL WRONGFUL ACT AND/OR OMISSION OF CONSULTANT, ITS OFFICERS, AGENTS, REPRESENTATIVES, EMPLOYEES, SUBCONTRACTORS, LICENSEES, INVITEES OR ANY OTHER THIRD PARTIES FROM WHOM CONSULTANT IS LEGALLY RESPONSIBLE, IN ITS/THEIR PERFORMANCE OF THIS AGREEMENT AND/OR ARISING OUT OF GOODS AND/OR SERVICES PROVIDED BY CONSULTANT PURSUANT TO THIS AGREEMENT, REGARDLESS OF THE JOINT OR CONCURRENT NEGLIGENCE OR STRICT LIABILITY OF THE CITY (HEREINAFTER "CLAIMS"). THIS INDEMNIFICATION PROVISION AND THE USE OF THE TERM "CLAIMS" IS ALSO SPECIFICALLY INTENDED TO APPLY TO, BUT NOT LIMITED TO, ANY AND ALL CLAIMS, WHETHER CIVIL OR CRIMINAL, BROUGHT AGAINST CITY BY ANY GOVERNMENT AUTHORITY OR AGENCY RELATED TO ANY PERSON PROVIDING SERVICES UNDER THIS AGREEMENT THAT ARE BASED ON ANY FEDERAL IMMIGRATION LAW AND ANY AND ALL CLAIMS, DEMANDS, DAMAGES, ACTIONS AND CAUSES OF ACTION OF EVERY KIND AND NATURE, KNOWN AND UNKNOWN, EXISTING OR CLAIMED TO EXIST, RELATING TO OR ARISING OUT OF**



ANY EMPLOYMENT RELATIONSHIP BETWEEN CONSULTANT AND ITS EMPLOYEES OR SUBCONTRACTORS AS A RESULT OF THAT SUBCONTRACTOR'S OR EMPLOYEE'S EMPLOYMENT AND/OR SEPARATION FROM EMPLOYMENT WITH THE CONSULTANT, INCLUDING BUT NOT LIMITED TO ANY DISCRIMINATION CLAIM BASED ON SEX, SEXUAL ORIENTATION OR PREFERENCE, RACE, RELIGION, COLOR, NATIONAL ORIGIN, AGE OR DISABILITY UNDER FEDERAL, STATE OR LOCAL LAW, RULE OR REGULATION, AND/OR ANY CLAIM FOR WRONGFUL TERMINATION, BACK PAY, FUTURE WAGE LOSS, OVERTIME PAY, EMPLOYEE BENEFITS, INJURY SUBJECT TO RELIEF UNDER THE WORKERS' COMPENSATION ACT OR WOULD BE SUBJECT TO RELIEF UNDER ANY POLICY FOR WORKERS COMPENSATION INSURANCE, AND ANY OTHER CLAIM, WHETHER IN TORT, CONTRACT OR OTHERWISE. CONSULTANT IS EXPRESSLY REQUIRED TO DEFEND CITY AGAINST ALL SUCH CLAIMS; PROVIDED, HOWEVER, IF A COURT OF COMPETENT JURISDICTION SIGNS A JUDGMENT THAT BECOMES FINAL AND NON-APPEALABLE, DETERMINING THAT THE CITY (WITHOUT WAIVING ANY GOVERNMENTAL IMMUNITY) HAS JOINT, CONCURRENT OR SOLE NEGLIGENCE FOR THE CLAIMS, IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS (THE "JUDGMENT"), THEN CONSULTANT IS NOT REQUIRED TO INDEMNIFY OR DEFEND THE CITY TO THE EXTENT OF THE NEGLIGENCE APPORTIONED TO THE CITY FOR EACH CAUSE(S) OF ACTION IDENTIFIED IN THE JUDGMENT. IN THE EVENT THE JUDGMENT PROVIDES THAT CITY IS JOINTLY, CONCURRENTLY, OR SOLELY NEGLIGENT FOR THE CLAIMS REFERRED TO THEREIN, CITY AGREES TO REIMBURSE CONSULTANT FOR ALL REASONABLE AND NECESSARY COSTS INCURRED AND PAID BY CONSULTANT THAT ARE ATTRIBUTABLE TO CITY'S PERCENTAGE OF JOINT, CONCURRENT, OR SOLE NEGLIGENCE, AS SET FORTH IN THE JUDGMENT, INCLUDING REASONABLE AND NECESSARY ATTORNEY'S FEES AND EXPENSES, TO CONSULTANT WITHIN SIXTY (60) DAYS OF THE DATE OF THE JUDGMENT (THE "REIMBURSEMENT ALLOCATION").

IN ITS SOLE DISCRETION, CITY SHALL HAVE THE RIGHT TO APPROVE OR SELECT DEFENSE COUNSEL TO BE RETAINED BY CONSULTANT IN FULFILLING ITS OBLIGATION HEREUNDER TO DEFEND AND INDEMNIFY CITY, UNLESS SUCH RIGHT IS EXPRESSLY WAIVED BY CITY IN WRITING. CITY RESERVES THE RIGHT TO PROVIDE A PORTION OR ALL OF ITS OWN DEFENSE; HOWEVER, CITY IS UNDER NO OBLIGATION TO DO SO. ANY SUCH ACTION BY CITY IS NOT TO BE CONSTRUED AS A WAIVER OF CONSULTANT'S OBLIGATION TO DEFEND CITY OR AS A WAIVER OF CONSULTANT'S OBLIGATION TO INDEMNIFY CITY PURSUANT TO THIS AGREEMENT.



**CONSULTANT SHALL RETAIN CITY-APPROVED DEFENSE COUNSEL WITHIN SEVEN (7) BUSINESS DAYS OF CITY'S WRITTEN NOTICE THAT CITY IS INVOKING ITS RIGHT TO INDEMNIFICATION UNDER THIS AGREEMENT. IF CONSULTANT FAILS TO RETAIN COUNSEL WITHIN SUCH TIME PERIOD, CITY SHALL HAVE THE RIGHT TO RETAIN DEFENSE COUNSEL ON ITS OWN BEHALF, AND CONSULTANT SHALL BE LIABLE FOR ALL COSTS INCURRED BY CITY. THE RIGHTS AND OBLIGATIONS CREATED BY THIS PARAGRAPH SHALL SURVIVE TERMINATION OF THIS AGREEMENT.**

## **ARTICLE 11 NOTICES**

Consultant agrees that all notices or communications to City permitted or required under this Agreement shall be delivered to City at the following addresses:

**Elizabeth Metting, P.E.**  
Assistant Director of Engineering Services  
Engineering Services Department  
City of Frisco  
6101 Frisco Square Boulevard  
Frisco, Texas 75034

City agrees that all notices or communication to Consultant permitted or required under this Agreement shall be delivered to Consultant at the following addresses:

**Thomas Whalen**  
Vice President  
Kimley-Horn and Associates  
12700 Park Central Drive, Suite 1800  
Dallas, TX 75251

Any notice provided in writing under the terms of this Agreement by either party to the other shall be in writing and may be effected by registered or certified mail, return receipt requested.

All notices or communication required to be given in writing by one party or the other shall be considered as having been given to the addressee on the date such notice or communication is postmarked by the sending party. Each party may change the address to which notice may be sent to that party by giving notice of such change to the other party in accordance with the provisions of this Agreement.

## **ARTICLE 12 MISCELLANEOUS**



- 12.1 **Complete Agreement** – This Agreement, including the exhibits hereto labeled “A” through “G,” all of which are incorporated herein for all purposes, constitute the entire Agreement by and between the parties regarding the subject matter hereof and supersedes all prior and/or contemporaneous written and/or oral understandings. This Agreement may not be amended, supplemented, and/or modified except by written agreement duly executed by both parties. The following exhibits are attached below and made a part of this Agreement:
- 12.1.1 Exhibit “A,” Scope of Services.
  - 12.1.2 Exhibit “B,” Compensation Schedule / Project Billing / Project Budget.
  - 12.1.3 Exhibit “C,” City of Frisco Guidelines for Computer Aided Design and Drafting (CADD).
  - 12.1.4 Exhibit “D,” City of Frisco Guidelines for Direct Expenses; General and Administrative Markup; Travel and Subsistence Expenses.
  - 12.1.5 Exhibit “E,” City of Frisco Contractor Insurance Guidelines.
  - 12.1.7 Exhibit “F,” Affidavit.
  - 12.1.8 Exhibit “G,” Conflict of Interest Questionnaire, Form CIQ.
- 12.2 **Assignment and Subletting** – The Consultant agrees that neither this Agreement nor the work to be performed hereunder will be assigned or sublet without the prior written consent of the City. The Consultant further agrees that the assignment or subletting of any portion or feature of the work or materials required in the performance of this Agreement shall not relieve the Consultant of its full obligations to the City as provided by this Agreement. All such approved work performed by assignment or subletting shall be billed through Consultant, and there shall be no third party billing.
- 12.3 **Successors and Assigns** – City and Consultant, and their partners, assigns, successors, subcontractors, executors, officers, agents, employees, representatives, and administrators are hereby bound to the terms and conditions of this Agreement.
- 12.4 **Severability** – In the event of a term, condition, or provision of this Agreement is determined to be invalid, illegal, void, unenforceable, or unlawful by a court of competent jurisdiction, then that term, condition, or provision, shall be deleted and the remainder of the Agreement shall remain in full force and effect as if such invalid, illegal, void, unenforceable or unlawful provision had never been contained herein.



- 12.5 **Venue** – This entire Agreement is performable in Collin County, Texas and the venue for any action related directly or indirectly, to this Agreement or in any manner connected therewith shall be in Collin County, Texas, and this Agreement shall be construed under the laws of the State of Texas.
- 12.6 **Execution / Consideration** – This Agreement is executed by the parties hereto without coercion or duress for any substantial consideration, the sufficiency of which is forever confessed.
- 12.7 **Authority** – The individuals executing this Agreement on behalf of the respective parties below represent to each other that all appropriate and necessary action has been taken to authorize the individual who is executing this Agreement to do so for and on behalf of the party for which his or her signature appears, that there are no other parties or entities required to execute this Agreement in order for the same to be an authorized and binding agreement on the other party for whom the individual is signing this Agreement and that each individual affixing his or her signature hereto is authorized to do so, and such authorization is valid and effective on the date hereof.
- 12.8 **Waiver** – Waiver by either party of any breach of this Agreement, or the failure of either party to enforce any of the provisions of this Agreement, at any time, shall not in any way affect, limit, or waive such party's right thereafter to enforce and compel strict compliance.
- 12.9 **Headings** – The headings of the various sections of this Agreement are included solely for convenience of reference and are not to be full or accurate descriptions of the content thereof.
- 12.10 **Multiple Counterparts** – This Agreement may be executed in a number of identical counterparts, each of which shall be deemed an original for all purposes.
- 12.11 **Sovereign Immunity** – The parties agree that the City has not waived its sovereign immunity by entering into and performing its obligations under this Agreement.
- 12.12 **Additional Representations** – Each signatory represents this Agreement has been read by the party for which this Agreement is executed and that such party has had the opportunity to confer with its counsel.
- 12.13 **Miscellaneous Drafting Provisions** – This Agreement shall be deemed drafted equally by all parties hereto. The language of all parts of this Agreement shall be construed as a whole according to its fair meaning, and any presumption or principle that the language herein is to be construed against any party shall not apply.



- 12.14 **No Third Party Beneficiaries** - Nothing in this Agreement shall be construed to create any right in any third party not a signatory to this Agreement, and the parties do not intend to create any third party beneficiaries by entering into this Agreement.
- 12.15 **Indemnity** – The parties agree that the Indemnity provision set forth in Article 10 herein is conspicuous and the parties have read and understood the same.
- 12.16 **Appropriation of Funds** – Funds are not presently budgeted for City's performance under this Agreement beyond the end of the City's 2008-2009 fiscal year. City will give Consultant sixty days (60) notice if funds for City's performance are not budgeted to continue beyond that time. City shall have no liability for payment of any money for services performed after the end of City's 2008-2009 fiscal year unless and until such funds are budgeted.

**IN WITNESS WHEREOF**, the parties have executed this Agreement and caused this Agreement to be effective on the latest day as reflected by the signatures below.

**Effective Date:** \_\_\_\_\_

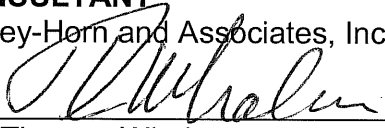
**CITY**

City of Frisco, Texas

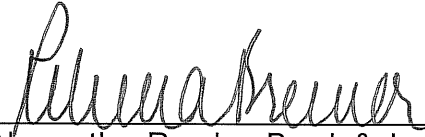
By: \_\_\_\_\_  
George Purefoy  
Title: City Manager

**CONSULTANT**

Kimley-Horn and Associates, Inc.

By:  \_\_\_\_\_  
Thomas Whalen  
Title Vice President

**APPROVED AS TO FORM:**

 \_\_\_\_\_  
Abernathy, Roeder, Boyd, & Joplin, P.C.



STATE OF TEXAS:

COUNTY OF COLLIN:

BEFORE ME, THE UNDERSIGNED AUTHORITY, A NOTARY PUBLIC IN AND FOR THE STATE OF TEXAS, ON THIS DAY PERSONALLY APPEARED **GEORGE PUREFOY**, KNOWN TO ME TO BE THE PERSON WHOSE NAME IS SUBSCRIBED TO THE FOREGOING INSTRUMENT AND ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME FOR THE PURPOSE AND CONSIDERATION EXPRESSED, AND IN THE CAPACITY THEREIN STATED.

GIVEN UNDER MY HAND AND SEAL OF OFFICE THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2009.

\_\_\_\_\_  
NOTARY PUBLIC IN AND FOR THE STATE OF TEXAS

My commission expires: \_\_\_\_\_

STATE OF TEXAS:

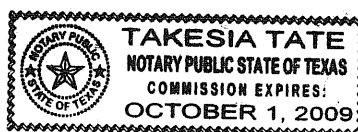
COUNTY OF Dallas:

BEFORE ME, THE UNDERSIGNED AUTHORITY, A NOTARY PUBLIC IN AND FOR THE STATE OF TEXAS, ON THIS DAY PERSONALLY APPEARED **THOMAS WHALEN** KNOWN TO ME TO BE THE PERSON WHOSE NAME IS SUBSCRIBED TO THE FOREGOING INSTRUMENT AND ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME FOR THE PURPOSE AND CONSIDERATION EXPRESSED, AND IN THE CAPACITY THEREIN STATED.

GIVEN UNDER MY HAND AND SEAL OF OFFICE THIS 4 DAY OF May, 2009.

Takesia Tate  
NOTARY PUBLIC IN AND FOR THE STATE OF TEXAS

My commission expires: 10-01-09





**EXHIBIT "A"**  
**SCOPE OF SERVICES**

**Agreement by and between the City of Frisco, Texas (City)**  
**And Kimley-Horn and Associates, Inc. (Consultant)**  
**To Perform Lafayette Drive Drainage Improvements**

---

**I. PROJECT DESCRIPTION**

It is understood that the City wishes for the Consultant to prepare construction documents for improvements to mitigate flood hazards associated with single family structures located at 5709 Lafayette Drive and 5713 Lafayette Drive. The existing structures have experienced flooding during multiple storm events. The existing storm sewer system in Lafayette Drive was designed to convey the 25-year storm event. The two subject properties are bordered to the west by Plantation Golf Club and White Rock Creek. The Consultant, under a previous agreement with the City, has analyzed and proposed improvement alternatives to mitigate the flooding hazard.

The City directed the Consultant to prepare a contract to design Option 2A (selected alternative) to mitigate the flooding. The selected alternative includes the construction of a new storm sewer system and alterations to the existing White Rock Creek channel. In order to permit the alterations to the channel, the Consultant understands that U.S. Army Corps of Engineers (USCOE) 404 Permitting will be required.

**II. TASK SUMMARY**

A. **Task One, Survey** – The Consultant will provide topographic information as shown on attached Exhibit 1.

- 1.1 The survey will be conducted to include the specifications set forth by National Mapping Standards. All contours will be certified to be correct to within one half the stated contour interval. Elevations obtained on hard surfaces, i.e. paving, etc. will be expressed to the nearest 0.01 feet and on natural ground surfaces to the nearest 0.10 feet. Contours will be tied to City of Frisco benchmark system.

The Consultant anticipates the City will arrange for or provide access to the necessary properties for the survey.

B. **Task Two, Floodplain Modeling** –

- 2.1 Under a previous agreement, the Consultant prepared existing condition and preliminary proposed condition hydraulic modeling of White Rock Creek based on on-ground topographic information. The modeling was



## **EXHIBIT "A"**

### **SCOPE OF SERVICES**

performed to tie-in with hydraulic modeling provided by the City. The Consultant will finalize the proposed condition modeling prepared under the previous agreement to reflect the proposed modifications to White Rock Creek and prepare a memo to the City summarizing the results of the modeling.

- 2.2 The Consultant will obtain the effective floodplain model for White Rock Creek from FEMA and will include the existing and proposed condition hydraulic modeling in the effective model. The Consultant does not anticipate additional modeling will be required to tie the existing and proposed condition modeling into the FEMA effective model. If additional modeling is required beyond the current extents of the modeling (Exhibit 2) to create this tie-in, it can be prepared as an additional service.

#### **C. Task Three, Construction Documents –**

- 3.1 The Consultant will prepare Civil Engineering Construction Documents in general accordance with currently published City standards and based on the City-approved alternative for the improvements. The Consultant anticipates the documents will include the following plan sheets:

- 3.1.1 Cover Sheet
- 3.1.2 General Notes
- 3.1.3 Dimension Control Plan
- 3.1.4 Channel Plan and Profile with Cross Sections
- 3.1.5 Storm Drainage Plan and Profile
- 3.1.6 Traffic Control Plan
- 3.1.7 Erosion Control Plan
- 3.1.8 Landscape Plan
- 3.1.9 Details

- 3.2 The Consultant anticipates the construction of the proposed improvements will result in excess material generated by the construction of the improvements. The Consultant will not prepare a spoils placement plan or SWPPP. The Consultant will meet with the City and with the property owners or their representatives up to two (2) times to discuss the proposed improvement concept. Additional meetings will be considered additional services.
- 3.3 The Consultant anticipates preparation of an Opinion of Probable Construction Cost (OPCC) one (1) time as part of this task.

#### **D. Task Four, Proposed Preliminary Jurisdictional Determination –**

- 4.1 Consultant will prepare a Proposed Preliminary Jurisdictional Determination Report for submittal to the Corps regarding the likely jurisdictional areas expected on the study area. The report will follow the format offered by the Fort Worth District Corps (March 24, 2003) and the guidance offered in Regulatory Guidance Letter 08-02, Jurisdictional Determinations for Preliminary Jurisdictional Determinations. The



## **EXHIBIT "A"**

### **SCOPE OF SERVICES**

potentially jurisdictional areas will be described in detail and will be graphically depicted on aerial photography and USGS topo map data to give the Corps an understanding of the potentially jurisdictional areas. This should allow the Corps to determine if they will assert jurisdiction over the potentially jurisdictional areas. It is important to note that a wetland delineation, if one is necessary, will be based on the professional judgment of KHA, its use of the Corps 1987 manual (as modified by the Interim Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Great Plains Region, March 2008), and that final authority over the delineation of waters of the US lies with the appropriate federal agency. Stream and open water delineations will be conducted based on the Ordinary High Water Mark (OHWM) as described in the Regional Guidance Letter (RGL 05-05), Guidance on Ordinary High Water Mark Identification.

On June 5, 2007, the U.S. Environmental Protection Agency and the U.S. Army Corps of Engineers jointly issued guidance interpreting the Supreme Court's June 2006 split decision in the consolidated cases Rapanos v. U.S. and Carabell v. U.S. (known as the Rapanos decision). The Court's split decision in Rapanos has caused uncertainty among EPA/Corps field personnel and the general public regarding the scope of federal jurisdiction. Observations will also address the June 2007 Post-Rapanos joint, EPA and Corps, guidance on Jurisdiction. It is important for the Client to understand that EPA and the Corps occasionally issue guidance concerning what they intend to exert jurisdiction over. Observations will be made under the applicable guidance at the time of the observations.

- 4.2 This task includes one site visit by a Professional Wetland Scientist. This task also assumes that wetlands, other than minor wetlands abutting the existing downstream detention pond, are not present and will not need to be delineated. If it is determined that additional wetlands are likely to be present and are proposed for impacts, additional fee may be required.
  - 4.2.1 Submit to the Client the Proposed Jurisdictional Determination letter report for review and one round of minor comments.
  - 4.2.2 Make minor revisions based upon the Client's review of the letter report.
  - 4.2.3 Submit the report to the Corps (Generally done in coordination with the PreConstruction Notification submittal).

#### **E. Task Five, Nationwide Permit PreConstruction Notification –**

- 5.1 Consultant will provide the following professional services under this task to submit a Corps PreConstruction Notification to the Fort Worth District Corps (The actual issuance of this permit/authorization is controlled by the Corps and EPA and is out of the control of the Consultant):\



**EXHIBIT "A"**  
**SCOPE OF SERVICES**

5.2 Consultant will prepare a Nationwide Permit PreConstruction Notification. The Consultant anticipates providing the following information in the submittal:

- 5.2.1 Proposed Preliminary Jurisdictional Delineation Report (Task 1)
- 5.2.2 Project Description
- 5.2.3 Purpose and Need
- 5.2.4 Alternatives Analysis (The Corps will only permit the least environmentally damaging practicable alternative) – *The alternatives developed under the previous agreement are assumed to fulfill this requirement*
- 5.2.5 Plan, Profile and other CAD Drawings – *The construction drawings developed in Task Three are assumed to fulfill this requirement*
- 5.2.6 Functional Assessment, based on Best Professional Judgment (if required by the Corps, a more formal analysis will be considered an additional service under Task Six)
- 5.2.7 Conceptual Mitigation Plan \* (Assumed to be satisfied by the purchase of mitigation bank credits – any onsite/offsite mitigation design and documentation will be considered an additional services under Task Six). The Client is responsible for the cost of mitigation bank credits.
- 5.2.8 Review of potential impacts to Threatened or Endangered Species from readily available databases
- 5.2.9 Review of potential impacts to known cultural resources from readily available databases

5.3 Submit to the Client the PreConstruction Notification for review and respond to one round of minor comments.

5.4 Make minor revisions based upon the Client's review of the PreConstruction Notification.

5.5 Submit the PreConstruction Notification to the Corps.

F. **Task Six, Post Submittal Agency Coordination** - Consultant will provide the following professional services under this task:

- 6.1 Coordination with the Corps during agency review of the PreConstruction Notification and conceptual mitigation plan.
- 6.2 Make revisions based upon the Corps' review, if required, of the PreConstruction notification.
- 6.3 Make revisions to the PreConstruction Notification due to design changes, if necessary.
- 6.4 Coordinate Mitigation Bank Credit Purchase Transaction and notification to the Corps.
- 6.5 Post Construction Notification to the Corps.



**EXHIBIT "A"**  
**SCOPE OF SERVICES**

- 6.6 Since the extent of the Consultant's effort is unknown at this time, effort for this task assumes 35 hours of effort over the course of the project. Additional effort will be considered additional services and will be billed accordingly.

**G. Task Seven, Easement Document Preparation –**

- 7.1 The proposed location of the channel and storm drainage improvements is not located in property owned by or included in an easement under the control of the City of Frisco. The Consultant will produce metes and bounds descriptions for the areas which will be disturbed during construction. The Consultant will also produce metes and bounds descriptions for the area which will become permanent drainage easements controlled by the City. The Consultant will prepare up to four metes and bounds descriptions based on the limits of construction and improvements determined during the design of the grading and construction plans (Task Three). The Consultant will provide the City with a legal description and exhibit drawing for each of the descriptions.

**H. Task Eight, Final Design Review Meetings and Coordination –**

- 8.1 The Consultant will address up to two rounds of written comments from the City on the proposed design under this task. The Consultant will meet with the City up to one time to review their comments, if requested by the City or deemed necessary by the City or the Consultant. The Consultant will also be available for up to one additional meeting with the City and the affected property owners to discuss the final design and to answer questions. Effort to address additional rounds of comments or attend additional meetings will be considered additional services and will be billed in accordance with the current hourly rate schedule, plus expenses. Upon completion of the final round of comments, the Consultant will provide the City with a revised OPCC.
- 8.2 The services listed in the tasks above include up to four meetings with City staff. Additional meetings will be considered additional services and will be billed in accordance with the current hourly rate schedule, plus expenses.

**I. Task Nine, Bidding and Construction Phase Services –**

- 9.1 Consultant is available to provide bidding and construction phase services to Client for this project. The scope of this task includes answering questions and providing clarification of our construction documents during the bidding and construction period. Consultant will not direct the work of the Contractor, guarantee the performance of the Contractor, nor accept responsibility for the Contractor's means, methods, and safety at the site.



## **EXHIBIT "A"**

### **SCOPE OF SERVICES**

Consultant will not be responsible for acts or omissions of the Contractor or any of its subcontractors, suppliers, or vendors.

- 9.2 The City assumes all responsibility for interpretation of the documents and for construction observation and the City waives any claims against the Consultant in any way connected thereto.
- 9.3 If the Consultant provides construction phase services, the Consultant shall have no responsibility for any contractor's means, methods, techniques, equipment choice and usage, sequence, schedule, safety programs, or safety practices, nor shall Consultant have any authority or responsibility to stop or direct the work of any contractor. The Consultant's visits will be for the purpose of endeavoring to provide the City a greater degree of confidence that the completed work of its contractors will generally conform to the construction documents prepared by the Consultant. Consultant neither guarantees the performance of contractors, nor assumes responsibility for any contractor's failure to perform its work in accordance with the contract documents.
- 9.4 The Consultant is not responsible for any duties assigned to the design professional in the construction contract that are not expressly provided for in this Agreement. The City agrees that each contract with any contractor shall state that the contractor shall be solely responsible for job site safety and for its means and methods; that the contractor shall indemnify the City and the Consultant for all claims and liability arising out of job site accidents; and that the City and the Consultant shall be made additional insureds under the contractor's general liability insurance policy
- 9.5 Because the extent of the Consultant's involvement is unknown at this time, effort for this task assumes 50 hours of effort over the course of the project. Additional effort will be considered additional services and will be billed in accordance to the current hourly rate schedule, plus expenses.

#### **J. Task Ten, Completion of Record Documents –**

- 10.1 The Consultant will review the record drawings prepared by the Contractor and make any changes recorded by the Contractor to the Construction Plans. The Consultant will prepare and submit a Record Drawing plan set for the Construction Plans in accordance with applicable City criteria. This task does not include any site visits to verify the drawings provided by the Contractor.

#### **K. Task Eleven, Letter of Map Revision Submittal –**

- 11.1 Following completion of construction, the Consultant will prepare a Letter of Map Revision Submittal to be submitted to the Federal Emergency Management Agency (FEMA). The submittal will include the following items:

- 11.1.1 Report Text



## **EXHIBIT "A"**

### **SCOPE OF SERVICES**

- 11.1.2 FEMA Forms
- 11.1.3 Pre-Project Condition Hydraulic Models
- 11.1.4 As-Built Condition Hydraulic Models
- 11.1.5 Floodplain Workmaps
- 11.1.6 Annotated FIRMs
- 11.1.7 Digital Files

- 11.2 The Consultant does not anticipate additional survey, hydrologic modeling, or revisions to the hydraulic models from Task Two as part of this effort. Floodway modeling is anticipated to be performed in this task. The Consultant will address up to two (2) rounds of written comments from the FEMA on the LOMR submittal under this task.
- 11.3 Currently, the FEMA review fee for the LOMR submittal is \$4,800.00. This fee and other potential fees required by FEMA are the responsibility of the City and are not included in the fees in Exhibit B.
- 11.4 The Consultant will endeavor to obtain FEMA approval of the LOMR submittals; however, the consultant cannot guarantee the approval.

### **III. ITEMS NOT INCLUDED IN THE EXISTING SCOPE OF SERVICES.**

- A. **Additional Services not included in the existing Scope of Services** – City and Consultant agree that the following services are beyond the Scope of Services described in the tasks above. However, Consultant can provide these services, if needed, upon the City's written request. Any additional amounts paid to the Consultant as a result of any material change to the Scope of the Project shall be agreed upon in writing by both parties before the services are performed. These Additional Services include the following:

- 1.1 **Scope of Services for the Project in Relation to Article 3, Section 3.1.4.6 of the Standard Form Agreement** – Under the Scope of Services to be performed by Consultant under this Agreement, Consultant shall not be responsible for obtaining the Notice of Substantial Compliance from the Texas Department of Licensing and Regulation ("TDLR").

### **IV. DELIVERABLES**

The Consultant shall produce the following deliverables for the City at the specified milestones:

- A. At the completion of Task Two, two copies of the floodplain elevation memo.
- B. At the completion of Task Three, three copies of the preliminary construction plans and OPCC.



**EXHIBIT "A"**  
**SCOPE OF SERVICES**

- C. At the completion of Task Four, two copies of the Proposed Jurisdictional Determination letter report.
- D. At the completion of Task Five, two copies of the PreConstruction Notification.
- E. At the completion of Task Seven, three copies of each of the easement documents prepared.
- F. At the completion of Task Eight, five copies of the final construction plans and OPCC.
- G. At the completion of Task Ten, one copy of the record drawings printed on mylar, and one copy of the record drawings in pdf format.
- H. At the completion of Task Eleven, three copies of the Letter of Map Revision submittal.

**V. PROJECT LABOR ALLOCATION**

<b>Task</b>	<b>Subtask</b>	<b>Labor Hours</b>
<b><i>TASK 1</i></b>	Survey	<b><i>5 Hours</i></b>
<b><i>TASK 2</i></b>	Floodplain Modeling	<b><i>15 Hours</i></b>
<b><i>TASK 3</i></b>	Construction Documents	<b><i>140 Hours</i></b>
<b><i>TASK 4</i></b>	Proposed Preliminary Jurisdictional Determination	<b><i>45 Hours</i></b>
<b><i>TASK 5</i></b>	Nationwide Permit Precon Notification	<b><i>75 Hours</i></b>
<b><i>TASK 6</i></b>	Post Submittal Agency Coordination	<b><i>35 Hours</i></b>
<b><i>TASK 7</i></b>	Easement Document Prep	<b><i>35 Hours</i></b>
<b><i>TASK 8</i></b>	Final Design Review Meetings and Coordination	<b><i>30 Hours</i></b>
<b><i>TASK 9</i></b>	Bidding and Construction Phase Services	<b><i>50 Hours</i></b>
<b><i>TASK 10</i></b>	Completion of Record Documents	<b><i>15 Hours</i></b>
<b><i>TASK 11</i></b>	Letter of Map Revision Submittal	<b><i>75 Hours</i></b>
<b><i>GRAND TOTAL</i></b>		<b><i>520 Hours</i></b>



**EXHIBIT "A"**  
**SCOPE OF SERVICES**

**VI. ATTACHMENTS (IF APPLICABLE)**



**EXHIBIT "B"**  
**COMPENSTAION SCHEDULE / PROJECT BILLING / PROJECT BUDGET**

Agreement by and between the City of Frisco, Texas (City)  
 And Kimley-Horn and Associates, Inc. (Consultant)  
 To Perform Lafayette Drive Drainage Improvements Services

**I. COMPENSATION SCHEDULE**

<b>MONTH, YEAR</b>	<b>DOLLAR AMOUNT</b>	<b>TASK COMPLETED</b>
<b>May 2009</b>	<b>\$5,000.00</b>	<b>Task One, Survey</b> (Task completed and all task-related deliverables submitted to and accepted by City).
<b>May 2009</b>	<b>\$2,000.00</b>	<b>Task Two, Floodplain Modeling</b> (Task completed and all task-related deliverables submitted to and accepted by City).
<b>June 2009</b>	<b>\$15,825.00</b>	<b>Task Three, Construction Documents</b> (Task completed and all task-related deliverables submitted to and accepted by City).
<b>May 2009</b>	<b>\$6,000.00</b>	<b>Task Four, Proposed Preliminary Jurisdictional Determination</b> (Task completed and all task-related deliverables submitted to and accepted by City).
<b>June 2009</b>	<b>\$10,000.00</b>	<b>Task Five, Nationwide Permit PreConstruction Notification</b> (Task completed and all task-related deliverables submitted to and accepted by City).
<b>December 2009</b>	<b>\$5,000.00</b> <i>(Hourly Estimate)</i>	<b>Task Six, Post Submittal Agency Coordination</b> (Task completed and all task-related deliverables submitted to and accepted by City).
<b>July 2009</b>	<b>\$5,000.00</b>	<b>Task Seven, Easement Document Preparation</b> (Task completed and all task-related deliverables submitted to and accepted by City).



**EXHIBIT "B"**  
**COMPENSTAION SCHEDULE / PROJECT BILLING / PROJECT BUDGET**

<b>MONTH, YEAR</b>	<b>DOLLAR AMOUNT</b>	<b>TASK COMPLETED</b>
<b>July 2009</b>	<b>\$4,000.00</b>	<b>Task Eight, Final Design Review Meetings and Coordination</b> (Task completed and all task-related deliverables submitted to and accepted by City).
<b>December 2009</b>	<b>\$7,000.00</b>	<b>Task Nine, Bidding and Construction Phase Services</b> (Task completed and all task-related deliverables submitted to and accepted by City).
<b>March 2010</b>	<b>\$3,675.00 (5%)</b>	<b>Task Ten, Completion of Record Documents</b> (Task completed and all task-related deliverables submitted to and accepted by City).
<b>April 2010</b>	<b>\$10,000.00</b>	<b>Task Eleven, Letter of Map Revision Submittal</b> (Task completed and all task-related deliverables submitted to and accepted by City).
<b><i>TOTAL CONSULTANT'S FEE (LUMP SUM, NOT-TO-EXCEED)</i></b>	<b>\$ 73,500.00</b>	



**EXHIBIT "B"**  
**COMPENSTAION SCHEDULE / PROJECT BILLING / PROJECT BUDGET**

**V. PROJECT BUDGET SUMMARY**

**A. Basic Services.**

1. Survey	\$ 5,000.00
3. Construction Documents	\$15,825.00
8. Final Design Meetings and Coordination	\$ 4,000.00
10. Completion of Record Documents	\$ 3,675.00

*Total Basic Services (Not To Exceed)* **\$28,500.00**

**B. Special Services.**

2. Floodplain Modeling	\$ 2,000.00
4. Proposed Preliminary Jurisdictional Determination	\$ 6,000.00
5. Nationwide Permit Preconstruction Notification	\$10,000.00
6. Post Submittal Agency Coordination <i>(Hourly Estimate)</i>	\$ 5,000.00
7. Easement Preparation	\$ 5,000.00
9. Bidding and Construction Phase Services	\$ 7,000.00
11. Letter of Map Revision Submittal	\$10,000.00

*Total Special Services* **\$45,000.00**

**C. Direct Expenses.**

a. *Total Direct Expenses (Not-To-Exceed)* **\$ 0,000.00**

**B. Special Services.**

1. Description of Special Services.
2. *Total Special Services (Not-to-Exceed)* \$ 0,000.00

**C. Direct Expenses.**

1. Description of Direct Expenses. (Add items applicable to this Contract).
  - a. **Mileage Reimbursement** \$ 0,000.00
  - b. **Commercial Reproduction** \$ 0,000.00
  - c. **In-House Reproduction** \$ 0,000.00



**EXHIBIT "B"**  
**COMPENSTAION SCHEDULE / PROJECT BILLING / PROJECT BUDGET**

d. Commercial Plotting	\$ 0,000.00
e. In-House Plotting	\$ 0,000.00
f. Communications	\$ 0,000.00

1.  
*(Not-To-Exceed)*

<b><u>Project Budget Grand Total (Lump Sum, Not-To-Exceed)</u></b>	<b><u>\$ 73,500.00</u></b>
--	----------------------------



**EXHIBIT "C"**  
**CITY OF FRISCO**  
**GUIDELINES FOR COMPUTER AIDED DESIGN AND DRAFTING (CADD)**

1. Files shall be submitted in DWG/DXF format.
2. Files shall be georeferenced in the State Plane, Texas North Central FIPS 4202 (feet) coordinate system, using a datum of NAD 83.
3. If a surface adjustment factor is applied to the data, any surface adjustment factors used should be clearly documented on the drawing.
4. If submissions for the Project relate to a plat, the file submitted must match exactly the plat that is submitted for recording.
5. The file shall contain required features for the project type as detailed below:
  - a. Pre-Construction/As-Built Plans and/or Record Documents:
    - i. Layers from Final Plat Requirements as Applicable to Project Type.
    - ii. Water Utility Features.
    - iii. Sanitary Sewer Features.
    - iv. Storm Sewer Features.
6. Each required feature group should be provided as a separate layer within the file.
7. Layer names should be representative of the information contained in the layer.
8. Line work should be continuous (e.g. no dashed lines in required layers) and complete (connecting lines should meet at corners) within the subdivision/project. Layers outside of project/subdivision boundary may be dashed in CAD data as required for Final Plats by Frisco Subdivision Ordinance Section 5.02.



**EXHIBIT "D"**  
**CITY OF FRISCO GUIDELINES FOR DIRECT EXPENSES; GENERAL AND  
ADMINISTRATIVE MARKUP; TRAVEL AND SUBSISTENCE EXPENSES**

- I. **CONSULTANT'S RESPONSIBILITY**. The Consultant shall be solely responsible for the auditing of all direct expenses, approved markup (general and/or administrative), and approved travel and/or subsistence charges, including those of its subcontractors, prior to submitting to the City for reimbursement, and Consultant shall be responsible for the accuracy thereof. Any over-payment by the City for errors in submittals for reimbursement may be deducted from the Consultant's subsequent payment(s) for services; however, this shall not be the City's sole and exclusive remedy for said over-payment.

II. **GUIDELINES FOR DIRECT EXPENSES**.

- A. **Local Transportation** – Transportation in connection with the Project, when such transportation is not a function of routine performance of the duties of the Consultant in connection with the Project, and when such transportation exceeds beyond fifty (50) miles from the Project site, shall be reimbursed at a standard mileage rate consistent with that as issued, and periodically revised, by the United States Internal Revenue Service (IRS). Under no circumstances shall City reimburse Consultant at a higher standard mileage rate or pay additional markup on charges for local transportation. Completion of City's Standard Mileage Log is required for submittal of these charges for reimbursement, including justification for each submitted expense.

Under no circumstances are charges associated with rental cars for local transportation eligible for reimbursement by City. Toll road subscriptions or toll plaza receipts are not reimbursable. Consultant agrees to place these standards in all subcontracts for work on the Project.

- B. **Supplies, Material, Equipment** – City shall reimburse the actual cost of other similar direct Project-related expenses, which are duly presented in advance and approved by City's Project Manager in writing.
- C. **Commercial Reproduction** – City shall reimburse the actual cost of reproductions, specifically limited to progress prints prepared for presentation to City at each phase of progress, and final Construction Documents prepared for distribution at bidding phase, provided that the Consultant has duly obtained at least three (3) quotations from commercial firms and has chosen the best value for the City. Consultant shall provide such documentation to City for review prior to submitting these expenses for reimbursement. Consultant agrees to place these standards in all subcontracts for work on the Project.
- D. **In-House Reproduction** - Consultant shall make arrangements with the City for prior approval of in-house reproduction rates prior to submitting these expenses for reimbursement. City shall provide Consultant with a standard format for documenting these charges. Completion of the City's reproduction log is required as a prerequisite for payment, including the number or reproductions,



**EXHIBIT "D"**  
**CITY OF FRISCO GUIDELINES FOR DIRECT EXPENSES; GENERAL AND  
ADMINISTRATIVE MARKUP; TRAVEL AND SUBSISTENCE EXPENSES**

the date, time, description, the approved standard rate, and a justification for each submitted expense for reimbursement. Consultant agrees to place these standards in all subcontracts for work on the Project.

- E. **Commercial Plotting** – City shall reimburse the actual cost of plots, specifically limited to final documents, provided the Consultant has duly obtained at least three (3) quotations from commercial firms and has chosen the best value for the City. Consultant shall provide such documentation to City for review prior to submitting these expenses for reimbursement. Consultant agrees to place these standards in all subcontracts for work on the Project.
- F. **In-House Plotting** – Consultant shall make arrangements with City for prior written approval of in-house plotting rates prior to submitting these charges for reimbursement. City shall provide Consultant with a standard format for documenting these charges. Completion of the City's reproduction log is required as a prerequisite for payment, including the number of plots, the date, time, description, the approved standard rate, and a justification for each submitted charge for reimbursement.
- G. **Communications** – Reimbursement for expenses relating to electronic communications shall be limited to long-distance telephone or fax toll charges specifically required in the discharge of professional responsibilities related to the Project. Telephone service charges including office or cellular phones, WATTS, or Metro line services or similar charges are not reimbursable.
- H. **Postage, Mail, and Delivery Service** – City shall reimburse the actual cost of postage and delivery of Instruments of Service, provided the Consultant duly considers all circumstances (including available time for assured delivery) of the required delivery and selects the best value for the City, which may require comparison of delivery costs offered by three (3) or more sources or methods of delivery, which at a minimum shall include U.S. Mail. Courier service is acceptable only in circumstances requiring deadline-sensitive deliveries and not for the convenience of the Consultant and/or the Consultant's employees. Consultant agrees to place these standards in all subcontracts for work on the Project.
- I. **Meals and Other Related Charges** – Meals or any other related expenses are not reimbursable unless incurred outside a fifty (50) mile radius of the Project, and then only reimbursable for the actual cost subject to compliance with the City's currently adopted policy. Non-allowable costs include, but are not limited to, charges for entertainment, alcoholic beverages, and gratuities.



**EXHIBIT “D”**  
**CITY OF FRISCO GUIDELINES FOR DIRECT EXPENSES; GENERAL AND  
ADMINISTRATIVE MARKUP; TRAVEL AND SUBSISTENCE EXPENSES**

**III. GUIDELINES FOR GENERAL AND ADMINISTRATIVE MARKUP.**

- A. **Requirement of Prior Approval** – Consultant may be allowed to charge a General and/or Administrative Markup on work completed if Consultant can clearly define to City specifically what costs are included in the markup calculation. To apply General and/or Administrative Markup, Consultant must also document to City what costs would be considered direct costs. City shall issue approval in writing to allow Consultant to charge General and/or Administrative Markup. City reserves the right to reject any and all requests for General and/or Administrative Markup.

**IV. GUIDELINES FOR TRAVEL AND SUBSISTENCE EXPENSES.**

- A. **Requirement of Prior Approval** – City shall reimburse the actual cost of travel and/or subsistence expenses upon prior written approval by the City’s Project Manager.
- B. **Adherence to Currently Adopted City Travel Policy** – Reimbursements shall be governed by the same travel policies provided for City employees according to current adopted policy. Prior to the event, Consultant shall request, and the City’s Project Manager shall provide the provisions and the restrictions that apply to out-of-town reimbursements.



**EXHIBIT "E"**  
**CITY OF FRISCO CONTRACTOR INSURANCE GUIDELINES**

**I. REQUIREMENT OF GENERAL LIABILITY INSURANCE –**

- A. Such policy shall name the City, its officers, agents, representatives, and employees as additional insured as to all applicable coverage with the exception of workers compensation insurance.
- B. Such policy shall require the provision of written notice to City at least thirty (30) days prior to cancellation, non-renewal, or material modification of any policies, evidenced by return receipt or United States Certified Mail.
- C. Such policy shall provide for a waiver of subrogation against the City for injuries, including death, property damage, or any other loss to the extent the same is covered by the proceeds of the insurance.

**II. INSURANCE COMPANY QUALIFICATION –** All insurance companies providing the required insurance shall be authorized to transact business in the State of Texas, and shall have a minimum rating of "A" by A.M. Best's Key Rating Guide, or other equivalent rating service(s).

**III. CERTIFICATE OF INSURANCE –** A Certificate of Insurance evidencing the required insurance shall be submitted with the contractor's bid or response to proposal. If the contract is renewed or extended by the City a Certificate of Insurance shall also be provided to the City prior to the date the contract is renewed or extended.



**EXHIBIT "E"**  
**CITY OF FRISCO CONTRACTOR INSURANCE GUIDELINES**

**IV. INSURANCE CHECKLIST** – "X" means that the following coverage is required for this Agreement.

	<b>Coverage Required</b>	<b>Limits</b>
<u>X</u>	1. Worker's Compensation & Employer's Liability	<ul style="list-style-type: none"> <li>Statutory Limits of the State of Texas</li> </ul>
<u>X</u>	2. General Liability	<ul style="list-style-type: none"> <li>Minimum \$1,000,000.00 each occurrence;</li> <li>Minimum \$2,000,000.00 in the aggregate.</li> </ul>
___	3. XCU Coverage	<ul style="list-style-type: none"> <li>Minimum \$1,000,000.00 each occurrence;</li> <li>Minimum \$2,000,000.00 in the aggregate.</li> </ul>
<u>X</u>	4. Professional Liability	<ul style="list-style-type: none"> <li>Minimum \$ 1,000,000.00 each claim;</li> <li>Minimum \$ 2,000,000.00 in the aggregate.</li> </ul>
___	5. Umbrella Coverage or Excess Liability Coverage	<ul style="list-style-type: none"> <li>An amount of \$ 2,000,000.00.</li> </ul>
<u>X</u>	6. City named as additional insured on General Liability Policy. This coverage is primary to all other coverage the City may possess.	
<u>X</u>	7. General Liability Insurance provides for a Waiver of Subrogation against the City for injuries, including death, property damage, or any other loss to the extent that same is covered by the proceeds of the insurance.	
<u>X</u>	8. Thirty (30) days notice of cancellation, non-renewal, or material change required. The words "endeavor to" and "but failure" (to end of sentence) are to be eliminated from the Notice of Cancellation provision on standard ACORD certificates.	
<u>X</u>	9. Insurance company has a minimum rating of "A" by A.M. Best's Key Rating Guide, or other equivalent rating service(s).	
<u>X</u>	10. The Certificate of Insurance must state the project title and bid number.	
___	11. Other Insurance Requirements (State Below):	



EXHIBIT "F"  
AFFIDAVIT

THE STATE OF TEXAS

§  
§  
§

THE COUNTY OF \_\_\_\_\_

I, THOMAS L. WHALEN, a member of the Consultant team, make this affidavit and hereby on oath state the following:

I, and/or a person or persons related to me, have the following interest in a business entity that would be affected by the work or decision on the Project (Check all that apply):

\_\_\_\_\_ Ownership of 10% or more of the voting shares of the business entity.

\_\_\_\_\_ Ownership of Twenty Five Thousand and 00/100 Dollars (\$25,000.00) or more of the fair market value of the business entity.

\_\_\_\_\_ Funds received from the business entity exceed ten percent (10%) of my income for the previous year.

\_\_\_\_\_ Real property is involved, and I have an equitable or legal ownership with a fair market value of at least Twenty Five Thousand and 00/100 Dollars (\$25,000.00).

\_\_\_\_\_ A relative of mine has substantial interest in the business entity or property that would be affected by my business decision of the public body of which I am a member.

\_\_\_\_\_ Other: \_\_\_\_\_

X \_\_\_\_\_ None of the Above.

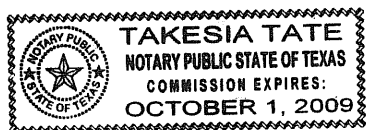
Upon filing this affidavit with the City of Frisco, Texas, I further affirm that no relative of mine, in the first degree by consanguinity or affinity, as defined in Chapter 573 of the Texas Government Code, is a member of a public body which took action on the agreement.

Signed this 4th day of May, 2009.

Thomas L. Whalen, VICE PRESIDENT  
Signature of Official / Title

BEFORE ME, the undersigned authority, this day personally appeared THOMAS L. WHALEN and on oath stated that the facts hereinabove stated are true to the best of his / her knowledge or belief.

Sworn to and subscribed before me on this 4th day of May 2009.



Takesia Tate  
Notary Public in and for the State of Texas  
My commission expires: 10.01.09



**EXHIBIT "G"**  
**CONFLICT OF INTEREST QUESTIONNAIRE, FORM CIQ**

<b>CONFLICT OF INTEREST QUESTIONNAIRE</b>		<b>FORM CIQ</b>
<b>For vendor or other person doing business with local governmental entity</b>		<b>OFFICE USE ONLY</b>
<p>This questionnaire is being filed in accordance with chapter 176 of the Local Government Code by a person doing business with the governmental entity.</p> <p>By law this questionnaire must be filed with the records administrator of the local government not later than the 7th business day after the date the person becomes aware of facts that require the statement to be filed. See Section 176.006, Local Government Code.</p> <p>A person commits an offense if the person violates Section 176.006, Local Government Code. An offense under this section is a Class C misdemeanor.</p>		<p>Date Received</p>
<b>1</b>	<p>Name of person doing business with local governmental entity.</p> <p><i>Kimley-Horn and Associates, Inc.</i></p>	
<b>2</b>	<div style="display: flex; align-items: flex-start;"><div style="margin-right: 10px;"><input checked="" type="checkbox"/></div><div><p>Check this box if you are filing an update to a previously filed questionnaire.</p><p>(The law requires that you file an updated completed questionnaire with the appropriate filing authority not later than September 1 of the year for which an activity described in Section 176.006(a), Local Government Code, is pending and not later than the 7th business day after the date the originally filed questionnaire becomes incomplete or inaccurate.)</p></div></div>	
<b>3</b>	<p>Describe each affiliation or business relationship with an employee or contractor of the local governmental entity who makes recommendations to a local government officer of the local governmental entity with respect to expenditure of money.</p> <p style="text-align: center; margin-top: 50px;"><i>None</i></p>	
<b>4</b>	<p>Describe each affiliation or business relationship with a person who is a local government officer and who appoints or employs a local government officer of the local governmental entity that is the subject of this questionnaire.</p> <p style="text-align: center; margin-top: 50px;"><i>None</i></p>	

Amended 01/13/2006



